NOVA SCOTIA

Department of Transportation
& Public Works
Procurement Branch

Procurement Policy

Province of Nova Scotia
Policy on
Government Procurement

January 26, 2001

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1. Policy Objective

The objective of this policy statement is to establish and maintain a high level of confidence in the procurement process by ensuring that all public sector procurement is carried out in an open, fair, consistent, efficient, and competitive manner.

The Government of Nova Scotia is committed to

- ensuring that the government's requirements for goods, services, construction, and facilities are met through an open and fair process that provides the highest degree of competition and value to the Province
- ensuring that all bidders have reasonable notice and opportunity to tender
- fostering economic development by giving every capable Nova Scotia supplier the opportunity to do business with the government
- encouraging Nova Scotia businesses to be competitive and to sustain quality product development
- adhering to the Agreement on Internal Trade and the Atlantic Procurement Agreement, which create economic opportunities for Nova Scotians
- treating out of province bidders in the same way as their jurisdictions would treat bidders from Nova Scotia
- being accountable to the public for procurement decisions

2. Definitions

For the purposes of this policy, the following definitions are provided.

Invitation to Tender

An invitation to tender (also referred to as request for bids or request for quotations) solicits competitive bids. It is used when the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria and specifications. The tender document describes the specifications to be met and the terms and conditions that will apply.

Request for Proposal

A request for proposal is used when a supplier is invited to propose a solution to a problem, requirement, or objective. Suppliers are requested to submit detailed proposals (also referred to as bids) in accordance with predefined criteria. The selection of the successful proposal is based on the effectiveness, value, and price of the proposed solution. Negotiations with suppliers may be required

to finalize any aspect of the requirement.

Request for Expression of Interest

The Request for the Expression of Interest is similar to the Request for Proposal, where suppliers are invited to propose a solution to a problem. The EOI, however, is only the first stage in the procurement process. Bidders responding to the EOI will be short listed according to their scoring in the evaluation process. The short listed firms will then be invited to respond to a Request for Proposal. The selection process will be the same as the Request for Proposal

Department

In this policy "department" includes agencies, boards, and commissions that are subject to the Auditor General Act, or other public sector entities for whom compliance with this policy has been directed by the minister responsible.

Unsolicited Proposals

Unsolicited proposals are submissions from any source where the originator believes the proposal may be of benefit to the Province. These proposals are not in response to a tender call or other type of request from government.

3. Application

This policy applies to all departments, agencies, boards, and commissions of the Government of Nova Scotia, effective January 26, 2001.

Public-sector entities that are provincially funded, such as academic institutions, school boards, hospitals, and Crown corporations, will adopt this policy, effective January 26, 2001.

The deputy minister of a government department or head of an agency, board, commission, or other public-sector entity is responsible for ensuring conformity with this policy.

Any employee of a department, agency, board, commission, or other public-sector entity who has responsibility for the procurement of goods, services, construction, or facilities must adhere to this policy.

Except as otherwise noted, this policy applies to all goods, services, construction, and facilities procured by purchase, contract, lease, or long-term rental.

The Minister of Transportation & Public Works is responsible for promoting and implementing this policy.

4. Procurement of Goods

Goods with an estimated value of up to and including $5,000 will be acquired by departments at competitive prices in accordance with procedures established by the Procurement Branch of the

Department of Transportation & Public Works.

Goods with an estimated value above $5,000 will be posted on an electronic public bid notice system website. In addition, bids may also be invited from selected suppliers where required to ensure an adequate degree of competition.

Bids will be evaluated not only on the price submitted but also on such factors as quality, delivery, servicing, and the capacity of the bidder to meet the criteria stated in the bid documents. Unless there is a valid and written rationale for the contract award, available for public review, the lowest competent tender will be accepted.

5. Procurement of Services

Services with an estimated value of up to and including $10,000 will be acquired by departments in accordance with procedures established by the Procurement Branch of the Department of Transportation & Public Works.

Services with an estimated value above $10,000 will be posted on an electronic public bid notice system website. In addition, bids or proposals may also be invited from selected suppliers where required to ensure an adequate degree of competition.

In order to establish the best value of the services offered, bids will be evaluated on price, qualifications, experience, past performance, and the capacity of the bidder to meet the criteria stated in the bid documents. Unless there is a valid and written rationale for the contract award, available for public review, the lowest competent tender will be accepted.

Specialized Services

Procurement of specialized services may require different processes to reflect the unique nature of the service.

Insurance Services

All insurance service requirements valued at more than $10,000 will be acquired by public tender at intervals not greater than every five years. Insurance will normally be tendered based on major insurance service categories.

Major insurance services may be renewed on an annual basis up to the five-year maximum on terms satisfactory to the Province. Otherwise, the service may be put to competitive tender call at any annual renewal date.

Architectural, Engineering, and Surveying Services

Requirements for consultants for assignments with an estimated value of up to and including $50,000 will be acquired through a public notice inviting consultants to submit corporate qualifications, to be updated at the consultant's initiative. The submissions will be in a prescribed format to facilitate the development of a departmental data base. Consultants will be selected from the departmental data base and interviewed, and a fee will be established.

Consultants for assignments with an estimated value greater than $50,000 will be selected as a result of a public advertisement and posted on an electronic public bid notice system website .

The services of these professional groups will be obtained through a qualifications-based selection process, which will include an assessment of competence, experience, cost, and other factors specific to the requirement as identified in the guidelines.

6. Procurement of Construction

Construction requirements with an estimated value of up to and including $10,000 will be acquired by departments at competitive prices, in accordance with procedures established by the Procurement Branch of the Department of Transportation & Public Works.

Construction requirements with an estimated value above $10,000 will be posted on an electronic public bid notice system website . In addition, bids or proposals may also be invited from selected suppliers where required to ensure an adequate degree of competition.

Construction competitions will be carried out in accordance with the Construction Contract Guidelines developed by the Department of Transportation & Public Works.

Bids may be evaluated on price, past performance, and the capacity of the bidder to meet the criteria stated in the bid documents. Unless there is a valid and written rationale for the contract award, available for public review, the lowest competent tender will be accepted.

7. Procurement of Facilities

All building lease requirements are to be acquired by way of public advertisement, in accordance with the Government's Facilities Procurement Guide developed by the Department of Transportation & Public Works.

8. Alternative Procurement Practices

Departments wishing to make use of an Alternative Procurement Practice, with the exception of an emergency situation, are to consult with the Procurement Branch to identify the most appropriate means by which to proceed with the satisfaction of the requirement. If in agreement, the Department and Procurement Branch will make a joint request to the Deputy Minister of the requesting Department who will then approve or reject the recommendation. In case or cases of a disagreement between the Department and the Procurement Branch the Department may present the proposed Alternative Procurement to their Deputy Minister for consideration and decision.

It is the Deputy Minister's responsibility to ensure that all procurements made by their Department are properly documented and recorded in the Province's Corporate Financial Management System.

Procurement processes other than those described in this policy statement may be used in circumstances such as those described below. Such processes are not to be used for the purpose of avoiding competition or to discriminate against specific suppliers. Each instance requires the prior approval of the appropriate Deputy Minister. These circumstances are:

8.1 an unforeseeable situation of urgency or emergency where the good, service, or construction requirement cannot be obtained by means of open procurement procedures

8.2 a situation where tendering could reasonably be expected to compromise government confidentiality, cause economic disruption, or otherwise be contrary to the public interest

8.3 to ensure compatibility with existing products; to recognize exclusive rights, such as exclusive licenses, copyright, and patent rights; or to maintain specialized products that must be maintained by the manufacturer or its representative

8.4 where, for technical reasons, there is an absence of competition, and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists

8.5 the procurement of goods or services for which there is a statutory monopoly that is controlled by a supplier

8.6 the purchase of goods on a commodity market

8.7 work to be performed on or about a leased building, or portions thereof, that may be performed only by the lessor

8.8 work to be performed according to the provisions of a warranty or guarantee

8.9 the procurement of a good or service to be developed in the course of and for a particular contract for research, experiment, study, or original development, but not for any subsequent purchases

8.10 the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases

8.11 the procurement of original works of art

8.12 the procurement of subscriptions to newspapers, magazines, or other periodicals

8.13 processes that foster the development of minority businesses

8.14 processes that foster the development of sheltered workshop programs.

8.15 goods intended for resale to the public

8.16 goods and services from persons with disabilities, philanthropic institutions, or through employment equity programs

8.17 services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation

8.18 medical services for persons in the care and custody of the Province

8.19 procurement of goods or services from another level of Government

Unsolicited Proposals

Where an unsolicited proposal is received, the government may consider a range of options, including a pilot project, partnership, or other arrangement, that will be undertaken to assess the merit of the proposal.

All unsolicited proposals require prior approval by the Deputy Minister of the sponsoring department.

9. Other Considerations

Amendments

This policy may be amended from time to time with the approval of the Executive Council. Such amendments will be communicated to the public.

Cooperative Purchasing

The government encourages the joint purchasing of goods and services used by all levels of the public sector when the arrangement results in overall cost savings or other substantial advantages. Crown corporations and organizations in the MASH sector (i.e., municipalities, academic institutions, school boards, and hospitals) may participate when such an arrangement will benefit both their organization and the Province.

Environmental Considerations

Where appropriate, the integration of environmental considerations into government procurement is encouraged. Procurement specifications will identify these considerations to ensure suppliers have a full understanding of the conditions to be met.

10. Pre-Qualification

Products and suppliers of goods, services, and construction may be pre-qualified prior to the close of call for tenders. This qualification process must be consistent with the principles of open and fair access to the opportunity provided for in this policy.

Suppliers may be subject to disqualification if there is sufficient evidence of consistent failure to meet the standards specified by the government.

11. Fair Treatment for Nova Scotia Suppliers

The Province of Nova Scotia is committed to ensuring that its supplier community receives fair treatment in their dealings elsewhere in Canada. To help ensure fairness the Procurement Branch may consider and evaluate bids from other jurisdictions on the same basis that the Purchasing Authorities in those jurisdictions would treat a similar bid from a Nova Scotia supplier.

Where a reciprocal treatment assessment could result in a change in an award decision the Deputy Minister of the requesting department will be presented with the options available and will make the determination of which bid or bids will be awarded the contract.

12. Bid Opening, Evaluation, and Award Information

Bid Opening

Bid submissions are opened in public in accordance with the closing time, date, and place stipulated in the bid request. Members of the public may attend bid openings or may receive the information electronically after bid opening.

All bid submissions are subject to evaluation after opening and before award of contract.

Bid Evaluation

Bids may be evaluated not only on the price submitted but also on quality, delivery, servicing, and the capacity of the bidder to meet the requirements and criteria stated in the bid request documents. The bid request documents must clearly identify the requirements of the procurement, the criteria that will be used in the evaluation of bids, and the methods of weighting and evaluating the criteria.

Award Information

After contracts have been awarded, all tender documents are available to the public, subject to the provisions of the Freedom of Information and Protection of Privacy Act.

On request, bidders are entitled to receive an explanation and a debriefing on their bid submission.

13. Approvals, Information and Reporting

Where a procurement is to be undertaken that is a sole source/alternative procurement, an unsolicited proposal, or is to be for a price other than the lowest tender, the deputy minister in the client department must approve the procurement, in consultation with the Procurement Branch. A report of these transactions will be prepared by the Procurement Branch on a regular basis and forwarded to the Minister of Transportation & Public Works.

All procurement activities will be subject to audit by the Auditor General.

All procurement activities will also be subject to audit by the Procurement Branch or by departmental internal auditors.

Departments must ensure that all procurement transactions are properly authorized, recorded in the Provincial Corporate Financial Management System, and supported by appropriate documentation. Repeated failure to comply with the Procurement Policy may result in the withdrawal of Purchasing Authority from an individual, Branch or Department.

For further information or clarification regarding government procurement policy please contact:

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Government Procurement Process

NOVA SCOTIA

Department of Transportation & Public Works
Procurement Branch
January 26, 2001

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Introduction

Through its Policy on Government Procurement, which came into effect January 1, 1996, and revised January 26, 2001, and the processes by which it is carried out, the Nova Scotia government is committed to:

- ensuring that the government's requirements for goods, services, construction, and facilities are met through an open and fair process that provides the highest degree of competition and value to the Province
- ensuring that all bidders have reasonable notice and opportunity to tender
- fostering economic development by giving every capable Nova Scotia supplier the opportunity to do business with the government
- encouraging Nova Scotia businesses to be competitive and to sustain quality product development
- adhering to the Agreement on Internal Trade and the Atlantic Procurement Agreement, which create economic opportunities for Nova Scotians
- treating out of province bidders in the same manner as their jurisdictions would treat bidders from Nova Scotia
- being accountable to the public for procurement decisions

This booklet is intended to provide government departments with information on the administrative process that supports the Procurement Policy. It consists of four sections:

Procurement Process Overview. To provide a quick and easy reference to the procurement process, the procedures to be followed and roles and responsibilities are provided in table format. Further information can be found in the Alternative Procurement Practices, Reporting and Audit, and Definitions sections.

Reporting and Audit. The reporting and auditing provisions described in this section are a major component of the procurement process. Included is a general outline of the documentation and reporting practices which are to govern procurement transactions.

Alternative Procurement Practices. Section 8 of the Policy on Government Procurement identifies a number of circumstances under which processes other than competitive tenders may be used to acquire goods, services, construction, and facilities. This section describes these circumstances in more detail and outlines the reporting procedures that must be followed.

Definitions. To ensure that the Procurement Policy is interpreted and applied consistently,

there must be a common understanding of what is meant by its terms. The definitions section, has been developed to provide as much of that common understanding as possible. It is located at the end of this booklet for easy reference.

If you have any questions regarding the procurement process please contact:

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PROCUREMENT PROCESS OVERVIEW

Competitive Process

Category/Threshold	*Method of Obtaining Bids*	*Role of Departments/Role of Procurement*
Goods $5,000 & below Services $10,000 & below Const. $10,000 & below	• Department obtains 3 quotes. • Department may also issue tender using Procurement's online competition software or purchase from an authorized standing offer arrangement. • For acquisitions valued below $1,000 departments may contract with a single source provided the price is considered fair and reasonable.	• Departments can handle Purchase directly. • Procurement assists departments upon request.

Goods above $5,000 Services above $10,000 Const. above $10,000	• Requirement posted on electronic public bid notice system. In addition may also invite suppliers to bid.	Department: • when need is identified contacts Procurement Branch to determine appropriate procurement strategy. Department and Procurement jointly determine if need is best satisfied through competition or as an alternative procurement. • prepares competition documentation • identifies requirements and specifications in such a way as to ensure Nova Scotia firms are provided fair and equal access to opportunities • convenes an evaluation jury • jointly with Procurement requests Deputy Minister's approval for services and construction awards to other than the lowest competent tender • reports problems to Procurement Procurement: • provides policy interpretation as required • assists with tender/RFP preparation and bid evaluation • advertises opportunities • determine if bids have been received from jurisdictions which discriminate against Nova Scotia bidders, presents to Deputy Minister for decision as appropriate • assists with contract award negotiation and placement • Awards contracts for goods, services and construction • audits procurement transactions and reports results to Minister of Transportation & Public Works as appropriate

Alternative Procurement Practices

Department	*Procurement*
• identifies need for an alternative procurement practice • contacts the Procurement Branch to recommend an alternative procurement practice and prepares a joint recommendation to the deputy minister • identifies specific policy circumstance permitting alternative procurement practice The Deputy Minister approves the alternative procurement practice after consultation with Procurement Branch.	• provides policy interpretation and recommendations as required • reviews documentation provided by the department • maintains records and statistics of alternative procurement practices approved by Deputy Ministers • provides an annual report for review by the Minister of Transportation & Public Works including a review of alternative procurement practices undertaken and analysis of ongoing use.

Unsolicited Proposals

Department	*Procurement*
• identifies acceptance of unsolicited proposal • identifies rationale to support recommendation. The Deputy Minister approves the acceptance of the unsolicited proposal after consultation with Procurement.	• provides policy interpretation as required • reviews documentation provided by department and analyzes pattern of use • maintains records and statistics of sole source contracts and unsolicited proposals • provides annual reports for review by Minister of Transportation & Public Works.

Reporting

Department	*Procurement*
• ensure that all procurement transactions have been properly entered and recorded in the procurement module of the Provincial Corporate Financial Management System • maintains audit files for all procurement transactions including those fully delegated to the department • on request provides Procurement with: - the recommendation for the proposed alternative procurement practice and the joint proposal approved by the department's Deputy Minister - as required for audit purposes, evidence that procurement policies governing delegated purchases, alternative procurements, and award to other than low bid contracts, have been complied with - evidence that all systems and procedural practices and standards have been complied with	• as required, provides recommendations regarding proposed: - alternative procurement contracts - awards to other than lowest competent tender - unsolicited proposals • provides the Minister of Transportation & Public Works with an annual report outlining: - value of goods, services, and construction awards - dollar value and percentage distribution of contracts by: • competitive--low competent tender • competitive--other than lowest competent tender • alternative procurement practices • unsolicited proposals - analysis of transactions • other than lowest competent tender awards • alternative procurement practices • unsolicited proposals • produces reports required under the terms of the Atlantic Procurement Agreement and the Agreement on Internal Trade.

Audit

All procurement activities will be subject to such audit processes as may be determined appropriate by the Auditor General, departmental internal auditors, or the Procurement Branch. Three forms of audit may occur. A compliance audit may be conducted to determine the level of adherence with established procurement rules and policies. A quality audit may also be undertaken in conjunction with or separately from compliance audits. The quality audit will examine the process undertaken and decisions reached from a defensibility and accountability point of view. A value for money audit may be conducted to ensure (especially for delegated purchases) that the best possible value for expenditures is obtained.

Departments are responsible to ensure that all procurement transactions are properly authorized, recorded in the Provincial Corporate Financial Management System and supported by appropriate documentation. Repeated failure to comply with the Procurement Policy may result in the withdrawal of purchasing authority from an individual, Branch or Department.

Delegated Purchases

Departments are to ensure that all delegated purchase transactions are properly approved, documented and entered in the procurement module of the Provincial Corporate Financial Management System. Departments are, however, expected to retain on file materials required for an audit of compliance within the delegated purchase authority rules.

Fair Treatment for Nova Scotia Suppliers

The Province of Nova Scotia is committed to ensuring that its supplier community receives fair treatment in their dealings elsewhere in Canada. To help ensure fairness the Procurement Branch, subject to relevant trade agreements, may consider and evaluate bids from other jurisdictions on the same basis that the Purchasing Authorities in those jurisdictions would treat a similar bid from a Nova Scotia supplier.

Where tenders are valued at less than trade agreement thresholds and where a reciprocal treatment assessment could result in a change in an award decision, the Deputy Minister of the requesting department will be presented with the options available and will make the determination of which bid or bids will be awarded the contract.

ALTERNATIVE PROCUREMENT PRACTICES

In order for the Procurement Policy to balance the need for open, competitive opportunity with the demands of urgent or specialized circumstances, alternative procurement practices have been created. These processes must be used only for the purposes intended and not to avoid competition or to discriminate against specific suppliers. To ensure that they are used appropriately, the Deputy Minister of each department in consultation with the Procurement Branch must approve the use of alternative procurement practices. As part of any approval the Deputy Minister will require that the rational permitting the alternative procurement practice be documented and will provide substantiation for the actions taken should they be required for audit purposes. It should be noted that an alternative procurement practice does not imply that contracts may be awarded without competition. The intention of the Procurement Policy is that the needs of government are to be addressed through the most open and competitive means possible, while recognizing that exceptional circumstances may occur.

Procurement will provide an annual report of all alternative procurements to the Minister of Transportation & Public Works. As part of this report, an assessment of individual procurements may be presented and the pattern of use by each department may be analysed. Where opportunity for improvement is identified, the results of the review processes will be discussed directly with the department involved and a plan developed for the resolution of any problems.

Specific Circumstances
Where Alternative Procurement Practices Are Permitted (See Section 8 of the Procurement Policy)

8.1 An unforeseeable situation of urgency or emergency where the good, service, or construction requirement cannot be obtained by means of open procurement procedures.

In this circumstance the key determinant is that the situation is unforeseeable and truly urgent in nature. Where life, personal security, or property are in danger, actions should be taken to minimize risk or damages. For instance, when a boiler in a residential facility fails in the middle of the winter, the department should take all necessary actions to protect the well-being of any occupants of the facility as well as to protect the facility itself. It should be noted, however, that inadequate planning or lapsing funds do not constitute an urgent or emergency situation for the purposes of this alternative. Even in situations of genuine urgency, departments are strongly urged to seek bids from the maximum practicable number of suppliers.

8.2 A situation where tendering could reasonably be expected to compromise government confidentiality, cause economic disruption, or otherwise be contrary to the public interest.

Departments are cautioned not to consider this circumstance to be an open-ended exception to the obligation to put requirements to competition. When using this alternative practice, departments must be able to demonstrate that the act of tendering would actually produce negative consequences.

For instance, in the case where the prosecution service is undertaking a major, sensitive criminal investigation, the ability to conduct the investigation might be compromised in some cases if certain forms of service were publicly tendered. In such a case, it might be prudent for the department to conduct a process other than a fully competitive public tender. However, departments may not use this circumstance simply because tendering is inconvenient or disruptive to operations. To apply this circumstance, the consequence must be directly associated with the act of tendering rather than with the selection made as a result of the tender.

8.3 To ensure compatibility with existing products; to recognize exclusive rights, such as exclusive licenses, copyright, and patent rights; or to maintain specialized products that must be maintained by the manufacturer or its representative.

For some products, such as computer technology and other specialized areas, restrictions exist with respect to the materials or products that will work with or are compatible with the technology already owned. In such cases competition may have to be limited to the manufacturers or distributors of the product in question.

8.4 Where, for technical reasons, there is an absence of competition, and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists.

This circumstance is quite limited in nature and application. It is intended to be interpreted that only one source or supplier has the technical capability, expertise, or legal right to contemplate delivering the product or service in question. This circumstance may not be used to select a supplier because they are the "best." It may be used only when the supplier is the "only" source and no other practical options exist. This circumstance should not be used when a sole supplier is the only "known" or "familiar" source of a product or service. In such cases the requirement must be put to competition to allow a full, open market search to determine if other sources of supply exist.

8.5 The procurement of goods or services for which there is a statutory monopoly that is controlled by a supplier.

Typically utilities such as power and water fall into this category of good or service.

8.6. The purchase of goods on a commodity market.

In some instances, such as the acquisition of certain financial products and money market transactions, it is necessary to procure through a commodity market. Commodity market transactions are generally restricted to those products whose nature makes the commodity market the only practical or cost-effective means of acquisition.

8.7 Work to be performed on or about a leased building, or portions thereof, that may be performed only by the lessor.

Departments considering having work done on a leased facility should contact the Government

Services Division of Transportation and Public Works to discuss options.

8.8 Work to be performed according to the provisions of a warranty or guarantee.

Warranty or guarantee work is normally the responsibility of the original supplier. Where the government is responsible for carrying out some work affecting a warranty, it must be done in accordance with the provisions associated with that warranty.

8.9 The procurement of a good or service to be developed in the course of and for a particular contract for research, experiment, study, or original development, but not for any subsequent purchases.

In some instances the development of a new product or service required by government requires a considerable amount of original development and research. This practice permits government to place a first-time contract for a good or service when that contract is truly required to facilitate the development of that good or service. To be considered suitable for this alternative procurement practice, the good or service in question must be new or unique and not commercially available from another source. This practice may not be used to support a supplier on an ongoing basis or to make incremental refinements to an existing product or service.

8.10 The purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.

Where such an opportunity presents itself the department should consult the Director of Purchases to determine an appropriate course of action.

8.11 The procurement of original works of art.

A work of art is by its very nature a highly subjective purchase. Personnel within departments who are authorized by their Deputy Minister to acquire original works of art may do so according to the practices established by their department and report such acquisitions in accordance with the Procurement Policy.

8.12 The procurement of subscriptions to newspapers, magazines, or other periodicals.

Where specific publications have only one source, such as the publisher or a single distributor, departments should contract directly with that source for the periodical materials required. The purchase of periodicals may involve many small individual transactions, therefore for administrative simplicity departments' purchases of subscriptions will be part of the audit process.

8.13 Processes that foster the development of minority businesses.

Where the Government of Nova Scotia has established a process to direct support to a specific group, departments may acquire services permitted by that process directly from the group in question. For

goods acquisitions from these sources departments should contact the Director of Purchases.

8.14 Processes that foster the development of sheltered workshop programs.

Where the Government of Nova Scotia has established a process to direct support to specific groups, departments may acquire services permitted to be acquired by that process directly from the group in question. For goods acquisitions from these sources departments should contact the Director of Purchases.

8.15. Goods intended for resale to the public.

Some government funded entities (eg. museums) operate retail stores on site, and certain items may not be appropriate for tendering purposes except where the entity identifies a competitive process eg. vending machines.

8.16 Goods and services from persons with disabilities, philanthropic institutions, or through employment equity programs.

Where the Deputy Minister of a department, agency, board or commission has approved the purchase, these entities may acquire goods and services from the groups in the above category.

8.17 Services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.

These services are not considered competitive or appropriate for tendering due to their nature.

8.18 Medical services for persons in the care and custody of the Province.

These services are usually specific to patients and are not considered competitive or appropriate for tendering. General medical consulting services that are viewed as a competitive opportunity by the sponsor, are to be tendered.

8.19 Procurement of goods or services from another level of Government.

Where a department wishes to obtain goods or services from another level of government or public institution such an acquisition is not required to be the subject of a public competition. As a general rule public bodies are thought to have an advantage over private organizations and as such should not be competing directly unless they have the specific mandate to do so.

DEFINITIONS

Alternative Procurement Processes
See Procurement Processes.

ASH Sector

The term ASH Sector refers to academic institutions, school boards, and hospitals. The ASH Sector is responsible for following the procurement practices laid out in the ASH Sector Procurement Process.

Building Leases

Building leases (also referred to as facilities) includes all building lease requirements covering the conveyance of the right to use tangible building property for a specified period of time in return for rent.

Competent Tender

A major element in the evaluation process is the determination of the lowest competent bid or tender received. The low responsive tender submitted by a responsible supplier is deemed to be the lowest competent tender. That is to say, the lowest competent tender is the lowest bid that satisfies all the mandatory requirements identified in a competition.

Responsive: To be considered responsive, a proposal, bid or offer must meet all the requirements stipulated in the invitation. Bids are deemed to be non-responsive if they fail to meet any mandatory requirement set out in the bid solicitation.

Responsible: A responsible supplier is one who is capable in all respects to perform the contract.

It is important to distinguish between lowest competent tender and other evaluation ideas such as "best overall value," "highest overall evaluation or score," "technical merit," and so forth. The Procurement Policy states that "unless there is a valid and written rationale for the contract award, available for public review, the lowest competent tender will be accepted." Therefore, the lowest competent tender in each competition is to be identified. To comply with the obligations of the Procurement Policy, all awards to bids other than the lowest competent tender must be supported by a written evaluation, approved by the responsible Deputy Minister, as necessary, and made available for public review.

Construction

Construction means a construction, reconstruction, demolition, repair, or renovation of a building, structure, road or other civil engineering or architectural work. It includes site preparation,

excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure, or other civil engineering or architectural work. It does not include professional consulting services related to the construction contract, unless they are included in the procurement.

Department

In the Procurement Policy "department" (also referred to as customer department or originating department) includes agencies, boards, and commissions that are subject to the Auditor General Act, or other public sector entities for whom compliance with the policy has been directed by the minister responsible. For purposes of this definition the "ASH" sector is not considered to be a department.

Deputy Minister

For purposes of the Procurement Policy the term Deputy Minister is intended to include the head of an agency, board, or commission as well as the Deputy Minister of a government department.

Electronic Bid Notice System

The Electronic Bid Notice System is a computer-based bulletin board and Internet system directly accessible by suppliers that provides them with information relating to competitive opportunities.

Evaluation Criteria

Evaluation criteria are the standards and measures used to determine how satisfactorily a proposal has addressed the requirements identified in a bidding opportunity. Evaluation criteria should not be developed in a manner which arbitrarily or unnecessarily excludes a Nova Scotia based product or service.

Once basic evaluation criteria are identified, it must be determined which criteria will be mandatory and which will be weighted/ranked. This will identify the appropriate type of selection strategy. With mandatory criteria, suppliers either *meet* or *do not meet* the criteria. A points system is not associated with mandatory criteria. Mandatory criteria are those elements that establish the basic requirement of the invitation. Any bid that is unable to satisfy any of these requirements is deemed to be incapable of performing the contract and is rejected. **It is on the basis of the mandatory criteria that the lowest competent tender is established.**

Weighted criteria, on the other hand, represent "nice to have" or "desirable" features, which add value or functionality to the proposal being made. With weighted criteria, the relative importance of each criterion to the overall requirement and to the other criteria must be determined. For each weighted criterion it must also be decided if a mandatory requirement is associated with it. In such a case the criterion is made up of two elements: a mandatory requirement (pass/fail) and a

desirable/weighted factor, which applies to features and functionality desired over and above the mandatory requirement and on which the department wishes to place additional consideration and value.

Evaluation Jury

The evaluation jury is a group (three or more individuals are recommended) assigned the responsibility in a competition to:

- develop the procurement plan
- review requirements and solicitation documents
- set evaluation criteria and points structure
- evaluate bids against predefined criteria
- document evaluations and recommend award

Members of the evaluation jury must not have a direct interest or conflict of interest in the award. The jury's principal emphasis is to ensure the needs of the end user are clearly and fairly defined and that a fair and open evaluation that respects the predefined evaluation criteria takes place.

Departments are responsible for ensuring that an evaluation jury is in place and that a report documenting the evaluation is prepared for each competition. A copy of each evaluation report is to be filed with Procurement and will be a part of the permanent competition file.

A representative from Procurement will participate in the evaluation process, as required, to facilitate an acquisition or to validate the evaluation process that has taken place.

As part of the audit and reporting process, Procurement will audit the evaluation process and documentation associated with procurement transactions and will provide a quarterly assessment report to the Minister of Transportation & Public Works. Advice and feedback developed in this process will be provided to departments to assist in the refinement of future evaluation exercises.

Goods

Goods refers to moveable property (including the costs of installing, operating, maintaining, or manufacturing that property) and includes raw materials, products, printed materials, equipment, and other physical objects of every kind and description, unless they are procured as part of a general construction contract.

Invitation to Tender

See Procurement Processes.

Procurement

Procurement means the acquisition by any means, including by purchase, rental, lease or conditional sale, of goods, services, construction or facilities, but does not include:

- any form of government assistance such as grants, loans, equity infusion, guarantees, or fiscal incentives
- government provision of goods and services to persons or other government organizations.

For purposes of this definition Procurement also includes what can be referred to as "Reverse Procurements". A Reverse Procurement is any transaction where tangible or intangible public resources are made available to be used, consumed, or sold by the private sector in return for a fee, service or other form of valuable benefit.

These procurements include but are not restricted to the distribution, use or sale of government information, processes, intellectual property, computer software or real property and facilities. All such procurements must comply with the Procurement Policy and all relevant provisions of the Surplus Crown Property Disposal Act and Regulations as they are viewed as valuable resources which must be managed and safeguarded as are other government assets.

The award approval processes which apply to reverse procurements are the same as those for regular procurements with the exception that departments are required to select the highest competent tender for award or seek the approval of the Deputy Minister of that department.

Procurement Processes

Alternative Procurement Processes

Section 8 of the Procurement Policy sets out a number of circumstances where procurement practices other than those described in the Policy may be followed. For a more detailed description of the intent behind these Alternative Procurement practices please refer to the Alternative Procurement Process section of this booklet.

Expression of Interest (EOI)

The Expression of Interest is used when a supplier is invited to propose a solution to a problem, requirement or objective. The client has a general concept of their requirement, but needs more input and expertise from the suppliers. The EOI is the first stage of the procurement process. Bidders responding to the EOI will be short listed according to their scoring in the evaluation process. The short listed firms will then be invited to respond to a Request for Proposal.

Invitation to Tender

An invitation to tender (also referred to as request for bids or request for quotations) solicits competitive bids. It is used when the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria and specifications. The tender document describes the specifications to be met and the terms and conditions that will apply.

Request for Information

A request for information means a procurement procedure where suppliers are provided with a general or preliminary description of a problem or need and are requested to provide information or advice about how to better define the problem or need, or alternative solutions. It may be used to assist in preparing a solicitation document. No contract awards are made directly from a request for information.

Request for Proposal

A request for proposal is used when a supplier is invited to propose a solution to a problem, requirement, or objective. Suppliers are requested to submit detailed proposals (also referred to as bids) in accordance with predefined criteria. The selection of the successful proposal is based on the effectiveness, value, and price of the proposed solution. Negotiations with suppliers may be required to finalize any aspect of the requirement.

Request for Qualifications

Request for qualification means a procurement procedure used for the qualification of goods or services or to invite suppliers, if they meet the required qualification criteria, to register on a permanent source list or on a particular source list intended for a specific competition.

Unsolicited Proposals

Unsolicited proposals are submissions from any source where the originator believes the proposal may be of benefit to the province. These proposals are not in response to a tender call or other type of request from government.

The government may consider a range of options, including a pilot project, partnership, or other arrangement, that may be undertaken to assess the merit of such a proposal. All unsolicited proposals require prior approval by the Deputy Minister of the sponsoring department.

Procurement Value

Procurement value means the estimated total financial commitment resulting from a procurement, not taking into account optional renewals when the compulsory part of the contract is completed.

Public Advertisement

A public advertisement means advertising in the public media with provincial circulation. In addition, public advertisement includes provision of information on an Electronic Bid Notice System.

Services

Services refers to any activity or work of a technical or non-technical nature done for hire. Services do not, however, include any civil service employment arrangements, which must be conducted under the rules and processes established by Human Resource Policies & Practices for the Province of Nova Scotia.

Statutory Monopoly

Statutory monopoly refers to an enterprise that in any relevant market has been designated by law or by governmental authority as the sole provider of a good or service.

Supplier

Supplier means a person or company who, based on an assessment of that person's or company's financial, technical, and commercial capacity, is capable of fulfilling the requirements of a procurement and includes a person or company who submits a tender for the purpose of obtaining a contract.

Technical Specification

Technical specification means a specification that sets out characteristics of goods or their related processes and production methods, or characteristics of services or construction projects or their related operating methods, including applicable administrative provisions. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labelling requirements as they apply to a good, process, or production or operating method. All specifications are to be developed in such a manner as to avoid unnecessarily discriminating against Nova Scotia products or services.

Tender

Tender (also referred to as a bid or proposal) means a supplier's response to a tendering procedure (also referred to as a call for tenders).

Tendering Procedures

Tendering procedures (also referred to as Procurement Processes) are the processes by which suppliers are invited to submit a tender, a proposal, or a cooperative business solution and includes the ways in which those tenders, proposals, or information submissions are treated.

SUMMARY OF PROCUREMENT POLICY CHANGES

	GOODS	SERVICES	CONSTRUCTION	FACILITIES
Local Authority	To $5,000	To $10,000	To $10,000	Under 2,500 sq. ft.
Website & Specific Invitations	$5,000+	$10,000+	$10,000+	Over 2,500 sq. ft.
Website & Specific Invitations, with Newspaper Advertising as an Option	$25,000+	$50,000+	$100,000+	over 2,500 sq. ft.

- Requirements above delegated thresholds, are available to **all** interested bidders through the Nova Scotia Procurement website.
- Requirements over the Atlantic Agreement Thresholds may also be publicly advertised in a newspaper.
- The above may also be augmented by specific invitations of vendors selected by the buyer.
- The Province of Nova Scotia will evaluate bidders from other jurisdictions in the same manner as a Nova Scotia bidder would be evaluated by that bidder's jurisdiction.
- Purchases of goods or services from another level of government may be placed sole source and recorded as an alternative procurement practice.

Changes from Present Policy

- Delegation for local purchase of goods increased from $1,000 to $5,000 per transaction.
- Delegation for local purchase of services and construction increased from $5,000 to $10,000 per transaction.
- Expansion of use of a purchasing card to improve payment processes and reduce paper.
- Deputy Ministers approve exceptions to the Policy with a report submitted to government on a regular basis.
- Jurisdictions which discriminate against Nova Scotia suppliers will receive similar treatment in the evaluation of bids submitted to us.

January 26, 2001

Revised Procurement Policy - Procedures Overview

Introduction

The revised procurement policy is being issued to accomplish the following goals:

a. To re-emphasize the Government Procurement Policy approved in 1996 and to present departments with the new revised practices.
b. To increase the frequency and value of government purchases done in local areas/regions of Nova Scotia.
c. To streamline the payment process by allowing departments to pay for the delegated purchase of goods, services and construction requirements using a purchasing card.
d. To delegate the approval of sole source/alternative procurement practices to the Procurement Branch and the deputy responsible for the particular purchase, while keeping government informed of the transaction.
e. To ensure Nova Scotia firms are treated fairly by other jurisdictions in the bidding process.

Procedures

Departments, agencies, boards and commissions will use one of the following four procedures in procuring their goods, services, or construction requirements.

a. Process goods, services and construction under the delegated purchasing procedures described in this directive. The delegated thresholds are:
   (i) goods $5,000 per transaction
   (ii) services $10,000 per transaction
   (iii) construction $10,000 per transaction
b. For requirements above the delegated thresholds, submit a requisition for the requirement using CFMS/SAP procedures, which will result in a tender/RFQ/RFP being issued to meet the goods, services or construction requirement.
c. Purchase the requirement using an existing standing offer up to a limit of $25,000 per transaction.
d. In conjunction with the deputy minister of the department and the Procurement Branch, obtain approval to use a sole source/alternative procurement practice. The deputy minister of the department will, in turn, notify government of the practice via the regular report produced by the Procurement Branch for the Minister of Transportation & Public Works. A copy of the Alternative Procurement Practice form is attached to these procedures.

Goods

Below $1,000 in value

Departments may obtain goods from a single source in the local area of Nova Scotia provided the price is considered fair and reasonable. The Corporate Purchasing Card should be used to streamline ordering and payment processes.

Between $1,000 & $5,000

Departments are to obtain three quotes from suppliers in the local area. Departments are encouraged to identify commodities that are suitable for standing offers so that supply support can be developed in local communities in Nova Scotia. The Corporate Purchasing Card should be used to streamline ordering and payment processes.

Above $5,000

Departments are to send a requisition to the Procurement Branch where the procurement officer responsible will take action to obtain the goods through the creation of a standing offer, or the issue of a separate tender, and advertise the tender on the Nova Scotia procurement website. The procurement officer, in consultation with the client department, will then make an award in the Corporate Financial Management System (CFMS).

Services and Construction

Below $1,000

Departments may obtain services from a single source in the local area of Nova Scotia, provided the price is considered fair and reasonable. The Corporate Purchasing Card should be used to streamline ordering and payment processes.

Between $1,000 & $10,000

Departments are to obtain three quotes from suppliers in the local area. Departments are encouraged to identify services that are suitable for standing offers so that these services can be developed in local communities in Nova Scotia. The Corporate Purchasing Card should be used to streamline ordering and payment processes.

Above $10,000

Departments are to send a requisition to the Procurement Branch where the procurement officer responsible will take action to obtain the service or construction through the

creation of a standing offer or the issue of a separate tender, and advertise the tender on the Nova Scotia Procurement website. The procurement officer, in consultation with the client department, will then make an award in CFMS/SAP.

Sole Source/Alternative Procurement Purchases

Below $5,000 - Goods/$10,000 - Services & Construction

Purchases may be made from a single source of supply as an alternative procurement practice, without quotes where the responsible manager has certified that the price is fair and reasonable and provides a justifiable and properly documented reason for the sole source. The responsible manager is defined as the person responsible for the applicable budget appropriation. An Alternative Procurement Practice Form is also to be sent to the Procurement Branch.

Above $5,000 - Goods/$10,000 - Services & Construction

Where a sole source purchase/alternative procurement practice is contemplated, the Procurement Branch and the department will review the request to assure the most appropriate procurement method and will then jointly seek the approval of the client department deputy minister, and record the approval on an Alternative Procurement Practice Form. In case or cases of disagreement between Procurement Branch and the department, the department's Deputy Minister shall make the final decision.

Report of Sole Source/Alternative Procurement Purchases

Reports identifying sole source/alternative procurement practices transactions undertaken will be provided by the Procurement Branch to the Minister of Transportation & Public Works on an annual basis.

Audits

Audits of any transaction regardless of value may be carried out by the Procurement Branch, internal auditors or the Auditor General. Procurement Branch audit results are reported to the Minister of Transportation & Public Works on an annual basis. Internal audit and Auditor General reports are to be actioned as directed by those organizations.

Audits may take the form of:

- compliance audit
- quality audit, and/or
- value for money audit

Departments are responsible to ensure that all procurement transactions are properly authorized, recorded in the Provincial Corporate Financial Management System and supported by appropriate documentation. Repeated failure to comply with the Procurement Policy may result in the withdrawal of purchasing authority from an individual, Branch or Department.

Fair Treatment for Nova Scotia Suppliers

The Province of Nova Scotia is committed to ensuring that its supplier community receives fair treatment in their dealings elsewhere in Canada. To help ensure fairness the Procurement Branch, subject to relevant trade agreements, may consider and evaluate bids from other jurisdictions on the same basis that the Purchasing Authorities in those jurisdictions would treat a similar bid from a Nova Scotia supplier.

Where tenders are valued at less than trade agreement thresholds and where a reciprocal treatment assessment could result in a change in an award decision the Deputy Minister of the requesting department will be presented with the options available and will make the determination of which bid or bids will be awarded the contract.

NOVA SCOTIA **Department of Transportation & Public Works**
Procurement Branch

Alternative Procurement Practices Report

To Procurement Branch, Dept. of Transportation & Public Works,

Director Purchases _____

Date _____ DPO/PO # _____

Department: _____

Division: _____

Goods ☐ *Services* ☐ *Construction* ☐

Procurement Undertaken: _____

_____

_____

Value: _____

Alternative Procurement Practice Used: _____

_____

_____

Bids Received: _____

_____

_____

Award Made: _____

_____

_____

Supporting Reasons: _____

_____

_____

Approved - Deputy Minister _____